

# **Exhibit 4**

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 -----x  
4 SONOS, INC.,  
5 Plaintiff,  
6 vs. Case No. 3:21-CV-07559-WHA  
7 GOOGLE LLC,  
8 Defendant.  
9 -----x

10 -----x  
11 -AND-  
12 -----  
13 UNITED STATES DISTRICT COURT  
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
15 -----x  
16 GOOGLE LLC,  
17 Plaintiff,  
18 vs. Case No. 3:20-CV-06754-WHA  
19 SONOS, INC.,  
20 Defendant.  
21 -----x

22 \*\*CONFIDENTIAL BUSINESS INFORMATION\*\*  
23 \*\*SUBJECT TO PROTECTIVE ORDER\*\*  
24 REMOTE VIDEOTAPED DEPOSITION BY VIRTUAL ZOOM OF  
25 TIM KOWALSKI  
Monday, May 8, 2023  
Reported By: Lynne Ledanois, CSR 6811  
Job No. 5907206

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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
-----x  
SONOS, INC.,  
  
Plaintiff,  
vs. Case No. 3:21-CV-07559-WHA  
GOOGLE LLC,  
Defendant.

-----x  
-AND-  
-----

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
-----x  
GOOGLE LLC,  
Plaintiff,  
vs. Case No. 3:20-CV-06754-WHA  
SONOS, INC.,  
Defendant.

-----x

Videotaped deposition of TIM KOWALSKI,  
taken in, Lincolnshire, Illinois commencing at  
10:03 a.m. CDT on Monday, May 8, 2023, before Lynne  
Ledanois, Certified Shorthand Reporter No. 6811.

///

REMOTE APPEARANCES

Counsel for Google LLC:

QUINN EMANUEL URQUHART & SULLIVAN, LLP

BY: JEFF NARDINELLI

Attorney at Law

50 California Street

22nd Floor

San Francisco, California 94111

jeff.nardinelli@quinnemanuel.com

///

REMOTE APPEARANCES

Counsel for Sonos LLC:

ORRICK HERRINGTON & SUTCLIFFE LLP

BY: JOESEPH KOLKER

BAS de BLANK

Attorneys at Law

1000 Marsh Road

Menlo Park, California 94025

jkolker@orrick.com

basdeblank@orrick.com

ALSO PRESENT:

David West, Videographer

Jim Sherwood, Google In-House Counsel

1 | Ledanois. We represent Veritext Legal Solutions. 10:04AM

2 I am not related to any party in this  
3 action nor am I financially interested in the  
4 outcome.

5 If there are any objections to proceeding, 10:04AM  
6 please state them at the time of your appearance.

7                   Counsel will now state their appearances  
8       and affiliations for the record beginning with the  
9       noticing attorney.

10 MR. KOLKER: Hi. My name is Joseph Kolker 10:04AM  
11 from Orrick, Herrington & Sutcliffe on behalf of  
12 Sonos, Inc. And with me today from Orrick is Bas de  
13 Blank.

14	MR. NARDINELLI: This is Jeff Nardinelli	
15	from Quinn Emanuel on behalf of Google and the	10:05AM
16	witness and with me is Jim Sherwood, in-house	
17	counsel for Google.	

18 THE VIDEOGRAPHER: Thank you. The court  
19 reporter may now swear the witness in and we will  
20 continue. 10:05AM

21 (Witness sworn.)

22 THE VIDEOGRAPHER: Counsel, please  
23 continue.

24	TIMOTHY KOWALSKI,	
25	having been duly sworn, testified as follows:	2:03PM

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14

Q Do you use any Sonos products?

15

A Yes.

10:15AM

16

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20

Q In what time frame did you acquire these

10:16AM

21

Sonos products for personal use?

22

A Sometime in 2015, 2016 time frame when we

23

were building our house.

24

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10:16AM

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Q Approximately how many Sonos products do  
you own?

10:16AM

A Six or eight maybe, probably eight.



1 | sorry, what was the other term you used? 11:37AM

2 Q My question was what your understanding is  
3 of the distinction between an operating company  
4 versus a nonpracticing entity?

5           A     Okay.  So, yes.  A general high-level           11:37AM  
6     understanding of a nonpracticing entity is a company  
7     that is not involved in selling products and therefore  
8     isn't using its patents.

9 Q So is it your understanding that an  
10 operating company is in the business of selling 11:37AM  
11 products while a nonpracticing entity is not in the  
12 business of selling products?

13	A	Generally, yes.
----	---	-----------------

14	Q Do you understand Sonos, Inc. to be a	
15	nonpracticing entity?	11:38AM

16           A     No. My understanding is Sonos sells  
17     products. In fact, we talked about the ones that I  
18     purchased earlier.

19	Q Do you understand Sonos to be a competitor	
20	to Google?	11:38AM

21	A	In what sense?
----	---	----------------

22	Q	In any sense.
----	---	---------------

23

24 THE WITNESS: At one point in time we were  
25 both selling speakers. So we may have been 11:38AM

1 competitive with respect to speakers at one point in 11:38AM  
2 time.

3 BY MR. KOLKER:

4 Q And at what point in time was that?

5 A I think around -- we're not really selling 11:38AM  
6 speakers anymore to my knowledge. I know in 2017  
7 roughly, I may be off by a year or two, we sold what I  
8 refer to as a premium speaker.

9 Q Is it your understanding that Sonos and  
10 Google were competitors in the speaker market at one 11:39AM  
11 point in time?

12 [REDACTED]

13 THE WITNESS: Yes, at least one point I  
14 would say competitors in the high-end speaker market  
15 at one point in time, premium speaker market at one 11:39AM  
16 point in time.

17 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] 11:40AM

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Q Has Google ever tracked Sonos's patents?

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12:02PM

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THE WITNESS: I don't think I have any

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non-privileged information that's responsive.

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12:02PM

Page 65

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q Has Google ever done any searches for 12:02PM

Sonos patents?

[REDACTED]

[REDACTED]

THE WITNESS: I don't think I have any

non-privileged information that's responsive to that 12:02PM

question.

[REDACTED]

Q Has Google ever attempted to locate family

members of Sonos patents?

[REDACTED]

[REDACTED]

THE WITNESS: Again, I don't have any

non-privileged information to answer in response to

that question.

BY MR. KOLKER: 12:03PM

Q Did Google make an effort to learn when

Sonos filed new patents?

[REDACTED]

[REDACTED]

THE WITNESS: I don't have non-privileged 12:03PM

1 information responsive to that question. 12:03PM

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

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95 [REDACTED]

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99 [REDACTED]

100 [REDACTED]



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Q Would you take a minute to review the

5

first page of this document.

1:24PM

6

7

Q Did reviewing that first page refresh your

8

recollection as to whether Google filed an action

9

for declaratory judgment of noninfringement of the

10

'966 patent?

1:25PM

11

12

13

THE WITNESS: I see that this document

14

shows that Google filed a declaratory judgment

15

action of noninfringement of the '966 patent.

1:25PM

16

BY MR. KOLKER:

17

Q If you can go ahead and go down to

18

Page 12, which is the second-to-last page of the

19

document.

20

A Yes, I think I'm there.

1:25PM

21

Q For the record, I'm looking at the

22

signature page which has a date and a signature by

23

Google attorneys.

24

Is that what you're looking at?

25

A Yes.

1:26PM

Page 87

1 Q Do you see that says that this document is 1:26PM  
2 dated September 28th, 2020?

3	A	I see that.
---	---	-------------

4. [REDACTED]

\_\_\_\_\_

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Category	Value
Category 1	10
Category 2	20
Category 3	30
Category 4	40
Category 5	50
Category 6	60
Category 7	70
Category 8	80
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12 Q And just to make sure we're looking at the

13 same document, does the case number read

14 3:20-cv-06754, dash, followed by two letters?

15	A	Yes.	1:26PM
----	---	------	--------

16 Q Okay. Any reason to doubt that this  
17 document was filed by Google on September 28th,  
18 2020?

19 A I don't have any reason to doubt that.

20

[REDACTED]

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\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

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1:27PM



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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■

[REDACTED]

[REDACTED]

Q Do you have any understanding as to

whether this declaratory judgment action alleges

that Google did not infringe the '966 patent?

1:28PM

[REDACTED] [REDACTED]

THE WITNESS: I believe this document is

Google is seeking a declaratory judgment of

noninfringement of the '966 patent.

[REDACTED]

[REDACTED]

■

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

1:29PM

1 BY MR. KOLKER: 1:33PM

2 Q Do you know when Google formed a basis as  
3 to its belief that it did not infringe the '966  
4 patent?

5 MR. NARDINELLI: Object to form. And 1:33PM  
6 also, Tim, I will instruct you not to answer that  
7 question on grounds of privilege.

8 THE WITNESS: Confirming I will follow  
9 counsel's advice.

10 BY MR. KOLKER: 1:33PM

11 Q Did Google form a basis as to its belief  
12 that it did not infringe the '966 patent prior to  
13 receiving Sonos's draft complaint or after receiving  
14 Sonos's draft complaint?

15 MR. NARDINELLI: Tim, instructing you not 1:33PM  
16 to answer that question on grounds of privilege.

17 THE WITNESS: Confirming I'm going to  
18 follow counsel's advice.

19 BY MR. KOLKER:

20 Q As a general matter, what is Google's 1:34PM  
21 policy for filing a legal pleading?

22 MR. NARDINELLI: Instruct you not to  
23 answer on grounds of privilege.

24 THE WITNESS: Confirming I'm going to  
25 follow counsel's advice. 1:34PM

1 BY MR. KOLKER: 1:34PM

2 Q For a legal pleading in general to be  
3 filed on Google's behalf, does Google have a policy  
4 of requiring review by Google?

5 MR. NARDINELLI: Instruct you not to 1:34PM  
6 answer on grounds of privilege.

7 THE WITNESS: Confirming I'm going to  
8 follow counsel's advice.

9 BY MR. KOLKER:

10 Q When Google reviews legal pleadings prior 1:34PM  
11 to filing, what is the scope of Google's review?

12 MR. NARDINELLI: Instruct you not to  
13 answer on basis of privilege.

14 THE WITNESS: Confirming I'm going to  
15 follow counsel's advice. 1:34PM

16 BY MR. KOLKER:

17 Q Do you understand that there is a Rule 11  
18 obligation to certify that factual contentions have  
19 evidentiary support or, if specifically so  
20 identified, will likely have evidentiary support 1:35PM  
21 after a reasonable opportunity for further  
22 investigation or discovery?

23 MR. NARDINELLI: If you know the answer to  
24 that, Tim, you can answer yes or no.

25 THE WITNESS: I'm generally aware of 1:35PM

1 Rule 11. I am not a litigator, so it doesn't come 1:35PM  
2 up in my daily practice.

3 BY MR. KOLKER:

4 Q Google states in this pleading that it  
5 does not infringe the '966 patent. 1:35PM

6 Do you know if that contention had  
7 evidentiary support at the time that this was filed?

8 MR. NARDINELLI: Instruct you not to  
9 answer on grounds of privilege.

10 THE WITNESS: Confirming I'm going to 1:35PM  
11 follow counsel's advice.

12 BY MR. KOLKER:

13 Q Prior to filing this declaratory judgment  
14 complaint, did Google have an opportunity to confirm  
15 its contention that it did not have -- the '966 1:36PM  
16 patent had evidentiary support?

17 MR. NARDINELLI: Instruct you not to  
18 answer on grounds of privilege.

19 THE WITNESS: Confirming I'm going to  
20 follow counsel's advice. 1:36PM

21 BY MR. KOLKER:

22 Q As a general matter, would Google file a  
23 pleading with the court if it did not believe the  
24 statements were true?

25 MR. NARDINELLI: Instruction not to answer 1:36PM

1 on grounds of privilege. Also object to form. 1:36PM

2 THE WITNESS: Confirming I'm going to  
3 follow counsel's advice.

4 BY MR. KOLKER:

5 Q Would Google have filed this declaratory 1:36PM  
6 judgment action if it did not believe the statements  
7 that it did not infringe the '966 patent were true?

8 MR. NARDINELLI: Objection, calls for  
9 speculation. I'll also instruct you, Tim, not to  
10 answer on grounds of privilege. 1:36PM

11 THE WITNESS: Confirming I'm going to  
12 follow counsel's advice.

13 BY MR. KOLKER:

14 Q Would Google have filed this declaratory  
15 judgment action if it did not have a sufficient 1:36PM  
16 basis to believe the statements that it did not  
17 infringe the '966 patent were true?

18 MR. NARDINELLI: Object to form. Instruct  
19 you not to answer on grounds of privilege.

20 THE WITNESS: Confirming I'm going to 1:37PM  
21 follow counsel's advice.

22 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1:37PM

1 I declare under penalty of perjury  
2 under the laws that the foregoing is  
3 true and correct.

4  
5 Executed on \_\_\_\_\_, 20\_\_\_\_,  
6 at \_\_\_\_\_, \_\_\_\_\_.

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12 Witness Signature  
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1 I, LYNNE M. LEDANOIS, a Certified  
2 Shorthand Reporter of the State of California, do  
3 hereby certify:


4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth;  
6 that a record of the proceedings was made by me  
7 using machine shorthand which was thereafter  
8 transcribed under my direction; that the foregoing  
9 transcript is a true record of the testimony given.

10 Further, that if the foregoing pertains to  
11 the original transcript of a deposition in a Federal  
12 Case, before completion of the proceedings, review  
13 of the transcript [X] was [] wasn't requested.

14 I further certify I am neither financially  
15 interested in the action nor a relative or employee  
16 of any attorney or party to this action.

17 IN WITNESS WHEREOF, I have this date  
18 subscribed my name.

19  
20 Dated: 5/8/23  
21  
22  
23

24 

LYNNE MARIE LEDANOIS

25 CSR No. 6811